IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

FRIDAY, THE 28TH SEPTEMBER 2007 / 6TH ASWINA 1929

WP(C).No. 10070 of 2004(W)

PETITIONER:
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1. G.APPUKUTTANKANI,
SHAJI BHAVAN, MANALI, THENNOOR P.O.,
NEDUMANGAD, THIRUVANANTHAPURAM.

2. P.KALADHARAN,
`SARAN', JAYAPRAKASH LANE, KUDAPPANAKUNNU,
THIRUVANANTHAPURAM.

BY ADV. SRI.SIBY MATHEW
SRI.PHILIP J.VETTICKATTU

RESPONDENTS:
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1. STATE OF KERALA,
REPRESENTED BY ITS SECRETARY,LOCAL SELF GOVERNMENT
DEPARTMENT, SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR OF PANCHAYATS,
THIRUVANANTHAPURAM.

3. DEPUTY DIRECTOR OF PANCHAYATS,
THIRUVANANTHAPURAM.

4. TAHSILDAR (R.R),
NEDUMANGAD, THIRUVANANTHAPURAM.

5. VITHURA GRAMA PANCHAYAT,
VITHURA P.O., THIRUVANANTHAPURAM-695 551,
REP. BY ITS SECRETARY.

BY ADV. SRI.P.K.SURESH KUMAR
SRI.K.P.SUDHEER

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

W.P.C.10070/2004

A P P E N D I X

PETITIONER'S EXHIBITS :

EXT.P1 SERIES : TRUE COPY OF RESOLUTIONS PASSED BY THE VITHURA GRAMA PANCHAYAT.

EXT.P2 : TRUE COPY OF BYELAWS AND MEMORANDUM PREPARED FOR THE FORMATION OF SOCIETY.

EXT.P3 : TRUE COPY OF PASS BOOK OPENED IN THE NAME OF THE VITHURA GRAMA PANCHAYAT AT EMPLOYMENT AND WELFARE SOCIETY.

EXT.P4 : TRUE COPY OF SHOW CAUSE NOTICE DT. 17.1.2003 ISSUED TO THE 2ND PETITIONER.

EXT.P5 : TRUE COPY OF SHOW CAUSE NOTICE DT. 27.2.2004 ISSUED BY THE DY.TAHSILDAR (RR) TO THE FIRST PETITIONER.

EXT.P6 TRUE COPY OF THE SHOW CAUSE NOTICE DT. 27.2.2004 ISSUED BY THE DY.TAHSILDAR (RR) TO THE 2ND PETITIONER.

EXT.P7 TRUE COPY OF NOTICE DT. 1.7.2002 ISSUED BY THE SECRETARY OF THE VITHURA GRAMA PANCHAYAT TO THE FIRST PETITIONER.

TGS

KURIAN JOSEPH J.

W.P.(C) No.10070 of 2004

Dated 28th September, 2007.

J U D G M E N T

Challenge is on recovery proceedings pursuant to Exts.P5 and P6. It is submitted that unless and until Ext.P4 proceedings are finalised, there is no justification in taking coercive steps for recovery. It is also submitted that there is no adjudication as to the actual liability also. Having heard learned counsel on both sides and also the learned Government Pleader, it is fairly clear that unless and until proceedings pursuant to Ext.P4 are finalised, the present steps taken for recovery are premature. Therefore, the writ petition is disposed of making it clear that unless and until there is due adjudication as to the liability, if any of the petitioners in accordance with law and with notice to them, there shall be no recovery.

KURIAN JOSEPH, JUDGE.

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